

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

<p>PETER MEYER REIMER, on behalf of himself and all others similarly situated,</p> <p style="text-align: center;"><i>Plaintiff,</i></p> <p style="text-align: center;">v.</p> <p>EGGLAND’S BEST, INC. and EGGLAND’S BEST, LLC,</p> <p style="text-align: center;"><i>Defendants.</i></p>	<p>Case No. _____</p> <p>CLASS ACTION COMPLAINT</p> <p>DEMAND FOR JURY TRIAL</p>
--	---

PREAMBLE

Plaintiff PETER MEYER REIMER (“Reimer” or “Plaintiff”), individually and on behalf of other similarly situated individuals, by and through his counsel, hereby files this Class Action Complaint for equitable relief and damages against Defendants EGGLAND’S BEST, INC. and EGGLAND’S BEST, LLC (collectively, “Defendants,” “Eggland’s” or “Eggland’s Best”) regarding the false and deceptive marketing and sale of Eggland’s Best Cage Free Eggs (“Cage Free Eggs”).

INTRODUCTION

1. This consumer protection class action is a result of false and misleading statements Eggland’s has made and continues to make about Eggland’s Best Cage Free Eggs, which are sold both in this District and nationwide.

2. Eggland’s makes specific representations on the packaging of its Cage Free Eggs and on its website about how the hens laying Cage Free Eggs are treated. Eggland’s represents that “[e]very hen selected by Eggland’s Best Cage Free Eggs is free to roam in a pleasant, natural

environment,” is “in an open, comfortable barn environment keeping them happy and healthy,” can exercise “normal function and behavior,” and is treated “humanely.”

3. None of this is true. What hens need to be happy and comfortable is a well-studied question. What is pleasant, natural, healthy, and happiness-inducing are all capable of being evaluated. Yet, evidence from inside and outside of Eggland’s suppliers’ factory farms, evidence from Eggland’s suppliers’ claimed animal welfare certifications, and admissions by both Eggland’s and its suppliers, show that they are utterly failing to meet the needs of hens or to provide pleasant, natural environments. Eggland’s representations otherwise are, therefore, untrue and misleading.

4. Eggland’s makes these false representations because modern consumers are increasingly concerned about the welfare of animals providing their food, including laying hens. Eggland’s is aware, and takes advantage of, the fact that conscientious consumers are willing to pay a premium for eggs supposedly made with less cruelty.

5. Illinois law does not conscience taking advantage of consumers in this way. Plaintiff seeks to end these misrepresentations and to ensure that damaged consumers are reimbursed.

JURISDICTION & VENUE

6. This Court has subject-matter jurisdiction over this proposed class action pursuant to 28 U.S.C. § 1332(d), the Class Action Fairness Act (“CAFA”). There are at least 100 members in the proposed Class.

7. Plaintiff Reimer is a citizen of Chicago, Illinois. Plaintiff consents to this Court’s jurisdiction over him by filing this Complaint.

8. This Court has personal jurisdiction over Eggland's Best because Plaintiff's claims arise from Eggland's transacting business in Illinois. Eggland's has directed its marketing to Illinois consumers, regularly conducts and transacts business in Illinois, distributes its products throughout Illinois, and has availed itself of the benefits and protections of Illinois law. Eggland's, therefore, must anticipate being subject to an action in this District.

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(a) and (b)(2) because substantial acts in furtherance of alleged improper conduct, including the dissemination of false and misleading labeling and advertising regarding the nature and quality of products at issue occurred within this District; and because Eggland's directs its marketing at consumers within Illinois, sells its eggs in Illinois, and has caused injury in Illinois.

PARTIES

I. Plaintiff Peter Meyer Reimer

10. At all relevant times, Plaintiff Reimer was and is an individual consumer over the age of eighteen. Within the Class Period, Plaintiff purchased Eggland's Best Cage Free Eggs that contained the on-label representation that "[e]very hen selected by Eggland's Best Cage Free Eggs is free to roam in a pleasant, natural environment" and "[o]ur hens are free to roam in an open, comfortable barn environment keeping them happy and healthy!" He purchased those eggs frequently during the class period at Mariano's in Bronzeville, located at 3857 S. Martin Luther King Drive, Chicago, IL, 60653, and at other stores.

11. In deciding to make his purchases, Plaintiff saw, relied on, and reasonably believed Eggland's on package representations, as laid out in detail below.

12. Plaintiff also saw, relied on, and reasonably believed Eggland's online representations about its care for hens and commitment to their welfare, as laid out in detail

below.

13. Plaintiff's belief in the truth of Eggland's representations resulted in him buying Eggland's Cage Free Eggs as opposed to competing brands, at a premium he otherwise would not have paid, and in quantities he otherwise would not have purchased.

14. Members of the proposed Class are currently purchasing, and will continue to purchase, Cage Free Eggs, unaware that Eggland's promises regarding hen welfare are untrue.

15. On September 5, 2024, Plaintiff mailed Defendants a letter giving notice of his claims.

II. Defendants Eggland's Best, Inc., and Eggland's Best, LLC

16. Defendant Eggland's Best, Inc., is a company incorporated in Pennsylvania. Defendant Eggland's Best, LLC, is a limited-liability company incorporated in Delaware. Their shared headquarters and shared place of business is in Jeffersonville, Pennsylvania.

17. Eggland's is the leading major egg brand in the United States, capturing more than \$276 million in egg sales in the first 12 weeks of 2024.¹ Defendants process, market, and distribute shell eggs to be sold to consumers throughout Illinois and nationwide.

18. Eggland's sources its eggs from factory farms across the United States and sells its egg products in Eggland's Best-branded cartons at grocery stores nationwide.²

19. Defendants created and/or authorized the false and deceptive labeling and marketing of the Cage Free Eggs.

¹ *Unit Sales of Leading Fresh Egg Brands in the United States in 2024*, Statista (Jun. 17, 2024), <https://www.statista.com/statistics/190497/top-fresh-egg-brands-in-the-united-states/>.

² *Frequently Asked Questions: Where are Eggland's Best Eggs Produced?*, Eggland's Best, <https://www.egglandsbest.com/faqs/egglands-best-eggs-produced> (last visited Oct. 29, 2024).

FACT ALLEGATIONS

I. Eggland's Represents That All Hens Laying Eggland's Best Cage Free Eggs Are in "Happy," "Pleasant," and "Natural" Environments.

20. Aware of growing consumer interest in humane animal care, and growing skepticism about industrial farming, Eggland's makes a mosaic of representations on packaging and on its website about how it treats its hens. It promises a high level of care sufficient to ensure pleasant, happy, natural conditions for all its laying hens.

21. A 12-pack carton of Eggland's Best Cage Free Eggs contains an on-package representation about how Eggland's treats the hens that lay its eggs. On the interior label, alongside advertising language promising a variety of nutritional benefits, Eggland's states that *"[e]very hen selected by Eggland's Best Cage Free Eggs is free to roam in a pleasant, natural environment."* These are the representations in context:



3

4

22. Other 12-pack cartons of Cage Free Eggs contain a slightly different representation. Identically located on the interior label and among other advertising claims, Eggland's promises that *"[o]ur hens are free to roam in an open, comfortable barn environment keeping them happy and healthy!"* This is the representation in context:

³ Eggland's Best Cage Free Eggs, Eggland's Best, <https://www.egglandsbest.com/product/cage-free-eggs> (last visited Oct. 29, 2024).

⁴ *Id.*



23. The Cage Free Eggs packaging also instructs consumers to “[v]isit www.egglandsbest.com for additional information.” A consumer who followed Eggland’s suggestion and visited the website, curious about animal welfare, would encounter additional representations that Eggland’s hens are well-treated.

24. Eggland’s claims in its Frequently Asked Questions on its website that “[s]pace requirement in cages and in houses are adequate for normal function and behavior” and that “flocks are always handled and transported humanely.”⁵

25. Eggland’s claims on its website, under “Animal Safety & Welfare,” that “[h]umane animal care is one of our highest priorities,” since “better eggs start with healthy

⁵ Does Eggland’s Best maintain acceptable standards of animal welfare?, Frequently Asked Questions, <https://www.egglandsbest.com/faqs/egglands-best-maintain-acceptable-standards-animal-welfare> (last accessed Oct. 29, 2024).

chickens.”⁶

26. Eggland’s promises that “[w]e take the welfare of the hens . . . very seriously, and we will continue to ensure that all of our eggs are produced to the highest of standards for our consumers.”⁷ Eggland’s claims that “[i]t is absolutely essential that hens be given the best care possible in order to produce the best eggs.”⁸

27. Eggland’s assures that “each of our producers is inspected routinely by a team of veterinarians that verifies complete animal care compliance.”⁹ “All” of their production facilities, Eggland’s asserts, “are audited annually to ensure that flocks are healthy and have sufficient space, light, ventilation, water, and feed and are protected from injury.”¹⁰

28. On Instagram, Eggland’s describes its eggs as “**natural**” and “real.” Eggland’s emphasizes that “all” nutritional differences in an Eggland’s egg are “**done naturally**” through its “EB Feed Program.”¹¹

29. Eggland’s also regularly conjures the image of the idealized local family farm. On its website, under the heading “About Our Cage Free Eggs,” Eggland’s describes its Cage Free Eggs as “ensuring a **farm-fresh** taste.”¹² Under “Exceptional Quality,” it describes its eggs as sourced from “**local farms all over the United States.**”¹³ And in television advertisements, Eggland’s markets its eggs as “**fresh from the farm.**”¹⁴

⁶ *Animal Safety & Welfare*, Eggland’s Best, <https://www.egglandsbest.com/exceptional-quality/animal-safety-welfare> (last visited Oct. 29, 2024).

⁷ *Id.*

⁸ *Animal Welfare*, Eggland’s Best FAQ’s, <https://www.egglandsbest.com/faqs/animal-welfare> (last visited Oct. 29, 2024).

⁹ *Animal Safety & Welfare*, *supra* note 6.

¹⁰ *Does Eggland’s Best maintain acceptable standards of animal welfare*, *supra* note 5.

¹¹ Eggland’s Best (@egglandsbest), *Eggland’s Best FAQ Instagram Story*, Instagram (Oct. 2024), <https://www.instagram.com/stories/highlights/17968499123790671/>.

¹² *Eggland’s Best Cage Free Eggs*, *supra* note 3.

¹³ *Exceptional Quality*, Eggland’s, <https://www.egglandsbest.com/exceptional-quality> (last visited Oct. 29, 2024).

¹⁴ *Fresh From the Farm Flavor TV Spot*, iSpot.tv (Oct. 31, 2017), <https://www.ispot.tv/ad/wRg6/egglands-best-eggs-fresh-from-the-farm-flavor>.

II. Egglard's Misrepresentations are Misleading to Consumers Because They Do Not Represent the Actual Conditions Faced by Egglard's Hens.

30. Egglard's representations about the welfare of the hens supplying its eggs are false. As alleged above, Egglard's promises that all hens that supply its eggs are living in an environment that is "pleasant" and "natural," are "happy," are "free to roam in an open, comfortable barn environment." Claiming that it holds itself to the "highest of standards," Egglard's promises consumers that it provides sufficient space for hens to express their "normal behavior," and that it "always" handles its flocks humanely.

31. These representations are belied by the actual conditions faced by hens in the factory farm egg production facilities that supply Egglard's Best Cage Free Eggs. Those conditions are inconsistent with the needs and preferences of hens and deprive them of anything resembling their natural environment. This causes them serious stress, creates violent conflict among the flock, and puts them at risk of injury and disease. In short, these are unnatural, uncomfortable, unpleasant conditions that do not make hens happy—exactly the opposite of Defendants' promises.

32. Obtaining information about the interiors of industrial chicken facilities is extremely difficult. Biosecurity and ordinary security needs, plus the desire of egg producers to avoid scrutiny, prevent easy access to the conditions inside those facilities. Egg production facilities are not broadly open to the public for concerned citizens to inspect. Nor can the hens' conditions be investigated effectively from adjacent properties—as shown in images below, these facilities are windowless metal warehouses that do not allow seeing inside, and they are often set back from roads and other properties. And the producers themselves do not provide the public with an alternative means of checking their representations, such as long, uncut videos walking through the facilities or regular detailed reports on those facilities.

33. The only realistic way for consumers to independently investigate the conditions of the hens in industrial egg facilities is to pull together information from multiple sources, using a mosaic of direct and circumstantial evidence to get a picture of what happens inside. No ordinary consumer plaintiff is capable, at the pleadings stage, of providing extensive and direct visual or veterinary evidence on the conditions faced by hens in industrial egg production facilities.

34. All of this is true of the facilities supplying Defendants' eggs. On information and belief—the source of which is Plaintiff's attempted investigations of such facilities, Defendants' animal welfare and sustainability representations, public-facing promotional images and videos from such facilities, Google Maps images, and Defendants' own marketing materials—an ordinary consumer has no access to the interior of these facilities, cannot effectively surveil them from public property, has no access to Defendants' audits of their suppliers, and cannot look to the producers' various representations to get an unedited picture.

35. Plaintiff's allegations here extensively and plausibly establish that Defendants' treatment of their hens is inconsistent with Egglund's marketing representations and well exceed the requirements at the pleading stage. But the fact remains that the best and most direct evidence is solely in the hands of Defendants. Only discovery will permit a full inquiry.

**A. Hens Have Specific, Identifiable Needs to Make Them Happy,
Comfortable, and to Provide Them with a Natural Environment.**

36. The kinds of conditions that are pleasant, healthy, and natural for hens are well-known. Hens and their needs have been well-studied. It is more than possible to assess whether one's actions towards them are liable to render them "happy" and "healthy" or would be "natural" or "pleasant." These are not empty descriptors.

37. Hens are energetic and curious and so need access to grass and other vegetation to engage in scratching, pecking, and foraging.¹⁵ These are quintessential natural hen behaviors, and they are a defining aspect of a hen's life if they are allowed to engage in them. If permitted to do so, hens spend up to 75% of their daylight hours roaming and foraging in grass and vegetation.¹⁶ In other words, access to grass and vegetation, and the freedom to forage and play, are both key parts of a hen's natural environment and important to their happiness.

38. Hens suffer when forced into dense, crowded environments. Although hens are social animals, they require personal space to express natural behaviors and should not be kept cheek-to-jowl.¹⁷ Failing to provide that space causes chronic stress,¹⁸ lowered feed intake, stunted growth, and an increased risk of health problems. Hens in such conditions also show listlessness, moving around less often and engaging less in natural behaviors like preening.¹⁹ Dense stocking makes them less healthy and less happy.

39. Dense conditions also result in increased aggression among the flock. Hens on top of each other are much more likely to fight, as they are forced to encounter thousands of other birds at extreme close range. Under natural conditions, hens can maintain social relationships and stable hierarchies with around 90 other hens. But when dealing with *thousands*, no possible stable pecking order can be established. This can result in everything from hens pecking each other's

¹⁵ *Adopting and Caring for Backyard Chickens*, Humane Society of the United States, www.humanesociety.org/resources/adopting-and-caring-backyard-chickens (last visited Oct. 30, 2024).

¹⁶ Krysta Morrissey, *A Day in the Life of a Laying Hen*, Global Animal Partnership (Jan. 3, 2020), <https://globalanimalpartnership.org/about/news/post/day-in-the-life-of-a-laying-hen>.

¹⁷ *How much space does a layer hen need?*, Royal Society for the Prevention of Cruelty to Animals (Sept. 18, 2023), <https://kb.rspca.org.au/knowledge-base/how-much-space-does-a-layer-hen-need/>.

¹⁸ Andrew M Campbell, et al., *Measuring Chronic Stress in Broiler Chickens: Effects of Environmental Complexity and Stocking Density on Immunoglobulin-A Levels*, 13 *Animals* 2058 (Jun. 22, 2023), <https://doi.org/10.3390/ani13132058>.

¹⁹ Mishkatul Zabir, et al., *Impacts of Stocking Density Rates on Welfare, Growth, and Hemato-Biochemical Profile in Broiler Chickens*, 8 *J. of Advanced Veterinary and Animal Research* 642–649 (Dec. 2021), <http://doi.org/10.5455/javar.2021.h556>.

feathers out to actual cannibalism.²⁰ Eggland's is well aware of this, and as discussed below, Eggland's engages in beak trimming to account for this precise problem.

40. Hens also, obviously, have a natural physical form in addition to a natural environment. This includes a beak that comes to a point capable of delivering sharp pecks for everything from eating to grooming to fighting. Altering that natural form is, definitionally, unnatural.

41. Lastly, and again obviously, hens require regular food and water for survival. Withdrawing or dangerously reducing access to such sustenance would be plainly unpleasant and harmful to a hen, and unnatural when deliberately caused by human intervention.

B. Visual Evidence of Conditions at Farms Supplying Defendants' Cage Free Eggs Shows that Defendants' Representations are False.

42. Visual evidence from Defendants' suppliers shows conditions completely inconsistent with the known needs hens have, the environments natural to them, and the conditions conducive to their happiness. Images from the exteriors of these facilities show completely enclosed metal warehouse structures apparently possessing no windows and offering no outdoor access. Many laying houses are also significantly longer than they are wide, creating a large but narrow area which would be difficult to traverse end-to-end.

43. Visual evidence from the interior of these facilities shows factory farm conditions similarly impossible to square with what we know of hen welfare, happiness, and environmental needs. Birds are cheek-to-jowl in their hundreds. They spend their lives on concrete floors with, at best, a sprinkling of dirt—no grass or vegetation. They live under artificial light. Some hens are confined to areas that appear to be little taller than the hens themselves. Every aspect of that

²⁰ *Beak Trimming – Mutilation or Necessity?*, British Hen Welfare Trust, www.bhwt.org.uk/beak-trimming/ (last visited Oct. 30, 2024).

life is directly contrary to what is natural, pleasant, and healthy for hens.

44. For example, ***Benton County Food, LLC (“Benton”)***, supplies Eggland’s Best Cage Free Eggs. A carton of Cage Free Eggs located in a grocery store in Virginia was marked with the Plant Code P1382, which per the United States Department of Agriculture’s (“USDA”) Agricultural and Market Service lookup table²¹ identifies their source as a Benton facility located in Siloam Springs, Arkansas.

45. Google Maps images of Benton from October 2024 show precisely the conditions just discussed. Benton is a factory farm confining its hens in long windowless warehouses with apparently no outdoor access:



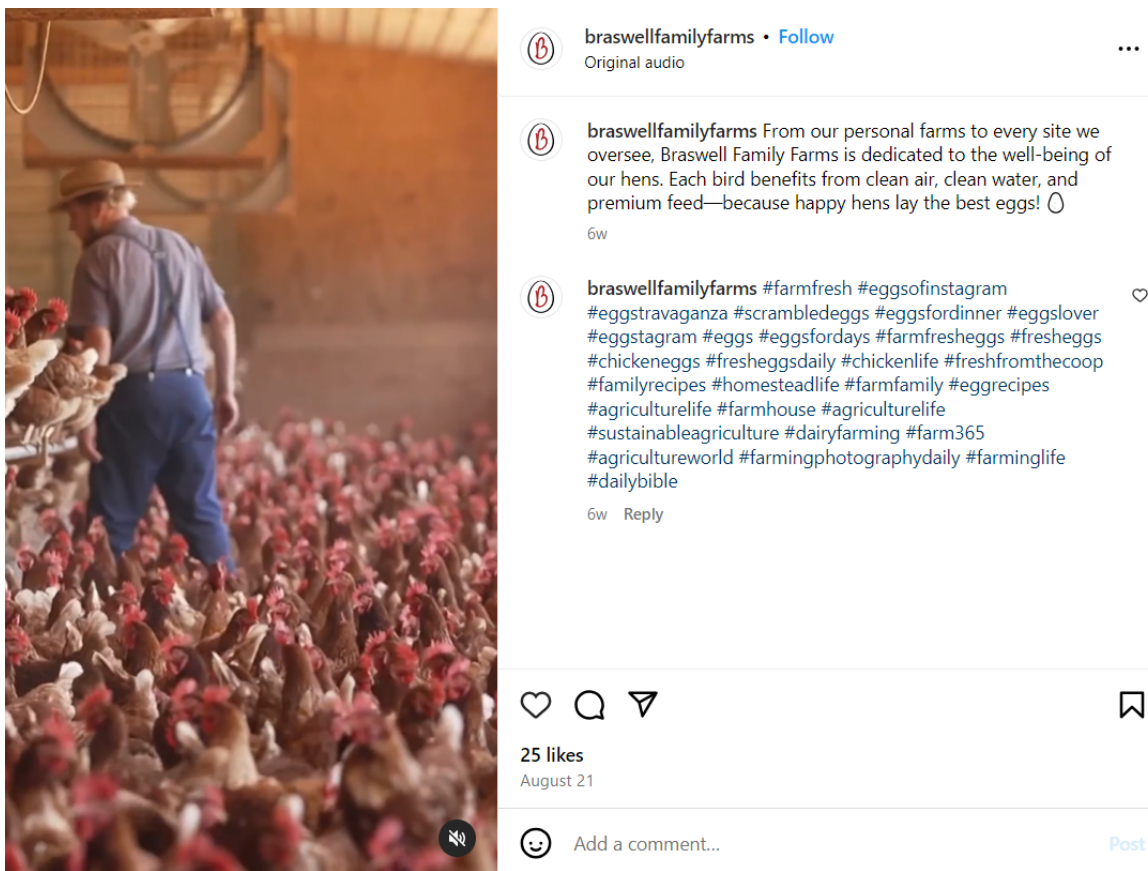
²¹ See generally *Livestock & Poultry Plants*, USDA, https://publicdashboards.dl.usda.gov/t/MRP_PUB/views/AMSLPQADPlantBook/MapofPlants?%3Aembed=y&%3AisGuestRedirectFromVizportal=y.



46. ***Braswell Family Farms/ Carolina Egg Company, Inc.*** also supplies Cage Free Eggs to Eggland's. A carton of Cage Free Eggs located in a grocery store in Virginia was marked with Plant Code P1194, identifying their source as a Braswell facility located in Nashville, North Carolina.

47. An August 21, 2024 video posted to Braswell's Instagram page shows dozens of hens pressed together tightly.²²

²² Braswell Family Farms (@braswellfamilyfarms), Instagram (Aug. 21, 2024), <https://www.instagram.com/p/C-8rhmtxUGV/>.



48. Exterior images of Braswell show the same factory farming setup, nine long, narrow, buildings apparently containing hens. All buildings are quite narrow—the image shows semi trucks parked nearby whose lengths seem to exceed the total width of the barns. Moreover, seven of the nine buildings lack windows, and those buildings with windows have small windows that are unlikely to fully light the interior:



23

49. ***Herbruck's Poultry Ranch*** also supplies Egglan's with Cage Free Eggs. A carton of Cage Free Eggs located in a grocery store in Virginia listed the address of a Herbruck's facility in Saranac, Michigan as a source for Cage Free Eggs.

50. A 2021 promotional video from Herbruck's contains brief images from the interior of their facility. Those images show hens on concrete floors, crammed together by the hundreds, and with no windows or access to natural light:

²³ 1999, Braswell Family Farms, <https://www.braswellfamilyfarms.com/about> (last visited Oct 30, 2024).



24



25

²⁴ Herbruck's Poultry Ranch, *Herbrucks WSTB GOLD v1*, YouTube (Jun. 29, 2021), <https://www.youtube.com/watch?v=pXwbTtQWaqg>.

²⁵ *Id.*



26

51. An August 12, 2024, Instagram post from Herbruck's shows, albeit blurred and in the background, a mass of tightly packed birds on the floor:



27

52. An October 2024 Google Maps image of Herbruck's Poultry Ranch shows that it is a factory farm consisting of what appear to be three, possibly four, large windowless barns:

²⁶ *Id.*

²⁷ Herbruck's Poultry Ranch (@herbruckpoultryranch), Instagram (Aug. 12, 2024), https://www.instagram.com/p/C-kgZxMuGC8/?img_index=1.



53. ***Hickman's Family Farms*** supplies Eggland's with Cage Free Eggs too. A carton located in a grocery store in Virginia identified a Hickman's facility located in Buckeye, Arizona as a supplier.

54. An October 2024 Google Maps image shows that Hickman's is a factory farm consisting of two laying houses. One building appears to lack windows, while the other appears to have six small rooftop windows insufficient to light the interior:



55. Hickman’s has also repeatedly failed to protect its hens from catastrophic deadly fires, which, given the dense conditions inherent to factory farming, resulted in huge numbers of deaths by burning and asphyxiation. In 2021, a Hickman’s facility in Arlington, Arizona caught fire and killed **165,000** hens.²⁸ A second fire occurred in a Hickman’s facility in Tonopah, Arizona in July 2024, fully destroying a 700 square foot coop and killing “many” hens.²⁹

56. *Mid-States Specialty Eggs* is another supplier of Cage Free Eggs. A carton of Cage Free Eggs located in a grocery store in Virginia displays a Mid-States facility in Smithton, Missouri as its source.

57. An October 2024 Google Maps image shows that Mid-States is a factory farm consisting of one irregularly shaped building lacking windows and outdoor access:

²⁸ Emily Wilder, *Arson detectives investigating fire at Hickman’s Family Farms that killed 165,000 hens*, AZCentral (Mar. 8, 2021), <https://www.azcentral.com/story/news/local/southwest-valley/2021/03/08/arson-detectives-investigating-hickmans-family-farms-fire/4630406001/>.

²⁹ Annie Goodykoontz, *Officials still assessing damage after Hickman’s Family Farms chicken coop fire*, AZCentral (Jul. 29, 2024), <https://www.azcentral.com/story/news/local/southwest-valley-breaking/2024/07/29/hickmans-family-farms-chicken-coop-fire-tonopah-arizona/74592879007/>.



58. *Morning Fresh Farms* also supplies Cage Free Eggs. A carton of Cage Free Eggs located in a grocery store in Virginia displays Morning Fresh Farms facility in Platteville, Ohio, as its source.

59. An image taken by the Denver Post of the interior of Morning Fresh Farms shows extensive overcrowding:



³⁰ *Eggs: Cracking the Mystery*, Denver Post (May 6, 2016), <https://www.denverpost.com/2009/12/15/eggs-cracking-the-mystery/>.

60. An October 2024 Google Maps image of Morning Fresh Farms shows that it is a massive factory farm made up of over 50 long, thin layer houses. None of them appear to have windows or outdoor access:



C. The Animal Welfare Certification Standards that Defendants' Suppliers Follow Also Show that Defendants' Representations Regarding Hen Welfare Are False.

61. As discussed above, the best and most direct evidence about the conditions faced by hens in facilities producing Cage Free Eggs is in Defendants' and those producers' exclusive control.

62. But egg production facilities do, implicitly, provide specific information about how they treat their hens: statements that they are meeting third-party certification standards. USDA "strongly encourages" their use in recent guidance,³¹ and such standards are an increasingly common way for industrial agriculture to market to a public concerned about animal welfare. Those standards state in detail how a producer is supposed to care for the animals. Such standards are, therefore, strong circumstantial evidence of how those claiming to follow them

³¹ *Press Release: USDA Releases Updated Guideline to Strengthen Substantiation of Animal-Raising and Environment-Related Claims on Meat and Poultry Labels*, USDA (Aug. 28, 2024), <https://www.usda.gov/media/press-releases/2024/08/28/usda-releases-updated-guideline-strengthen-substantiation-animal>.

treat their hens.

63. Compliance with such certifications would be insufficient to make Egglund's representations true. Quite the opposite in fact, given Egglund's promises. As reported in Forbes, *"[a]ll animals living in certified, improved conditions still experience some level of pain and stress."* *"Even the best certifications,"* the article continues, *"seem to give the public the impression that animals are treated better than they are."*³²

64. Moreover, in practice, these certifications are not necessarily followed, ensuring the animals suffer even more pain and stress. They often represent aspirational ceilings for how animals should be treated rather than true, on-the-ground commitments. There is significant criticism of many organizations offering certifications that they fail to ensure all certified entities are actually complying with the standards in practice.³³

65. Here, the certifications on which Egglund's suppliers rely show that those producers subject hens to conditions that are not consistent with Egglund's representations.

66. For example, *Braswell Family Farms/ Carolina Egg Company, Inc.*, as discussed above, is a supplier of Cage Free Eggs. They claim to follow multiple animal welfare certification guidelines including United Egg Producers' ("UEP") Cage Free Certified and Certified Humane:

³² Brian Kateman, *Do Welfare Certifications Raise the Bar for Farm Animals?*, Forbes (Dec. 15, 2021), <https://www.forbes.com/sites/briankateman/2021/12/13/do-welfare-certifications-raise-the-bar-for-farm-animals/>.

³³ See *id.* See also Andrew deCoriolis, *Dairy Humanewashing Part I: Leading Certifications Failed to Prevent Deception*, Farm Forward (Apr. 12, 2024), <https://www.farmforward.com/news/dairy-humanewashing-part-1-leading-certifications-failed-to-prevent-deception/>.

<p>CERTIFIED HUMANE</p>	<p>CAGE FREE CERTIFIED</p>	<p>QUALITY CERTIFICATION SERVICES</p>
<p>The goal of the program is to improve the lives of farm animals by driving consumer demand for kinder and more responsible farm animal practices.</p>	<p>Assures our eggs are in compliance with UEP Animal Husbandry Guidelines, such as providing the proper amount of bird living space, healthy production practices, and careful handling of our hens.</p>	<p>QCS is the certification body of Florida Certified Organic Growers and Consumers Inc., a nonprofit organization that began certifying organic growers in 1987 and received its USDA accreditation in 2001.</p>

<p>UNITED EGG PRODUCERS</p>	<p>SAFE QUALITY FOOD INSTITUTE</p>	<p>AMERICAN HUMANE CERTIFIED</p>
<p>Assures our eggs are in compliance with UEP Animal Husbandry Guidelines, such as providing the proper amount of bird living space, healthy production practices, and careful handling of our hens.</p>	<p>A division of the Food Marketing Institute. Assures our eggs are produced in a HACCP based food safety and quality system. SQF Food Safety Code for Manufacturing and Quality has been awarded to Carolina Egg Company in Nashville, NC.</p>	<p>Assures the highest humane treatment of our farms. This means all hens live on a nutritious diet free of antibiotics and hormones and they are raised with sufficient space allowing them the ability to engage in natural behavior.</p>

Certifier #104086

34

67. But UEP's Cage Free Certified standards permit serious overcrowding, beak trimming without pain mitigation, and keeping hens indoors forever. Individual hens are afforded only 1.0 to 1.5 square feet of floor space and 6 inches of perch space.³⁵

68. So too for Certified Humane. Certified Humane standards mandate only 1.2 to 1.5 square feet per animal. They also permit beak trimming without pain management. And they

³⁴ *Product Accolades*, Braswell Family Farms, <https://www.braswellfamilyfarms.com/eggs> (last visited Oct. 30, 2024).

³⁵ *Cage-Free Housing Animal Welfare Guidelines for U.S. Egg Laying Flocks*, UEP, at 10, 19, 21, 23, (2024), <https://uepcertified.com/wp-content/uploads/2024/10/2024-UEP-Revised-CF-Guidelines-Final.pdf>.

permit withdrawing water from birds to induce molting.³⁶

69. **Hickman's Family Farms** advertises on its website that it is a member of the American Humane Certified program.³⁷ But like with UEP and Certified Humane, these standards permit treatment that is inconsistent with hen's happiness, health, and safety. They too permit serious overcrowding, requiring only 1.0 to 1.2 square feet per bird and only 6 inches of perch space per bird. There is no requirement that these hens ever be allowed to see the sun. And the standards permit beak trimming without pain mitigation.³⁸

70. **Mid-States Specialty Eggs** is also American Humane Certified.³⁹ Again, those standards permit overcrowding, keeping the hens indoors forever, and beak trimming without pain mitigation.

D. Defendants and their Suppliers Admit to Causing Dangerous and Unpleasant Crowding and to Altering Hens' Natural Forms.

71. Egglan's admits that confining hens in "large barn[s]" causes "problems" including aggression. This is the result, as Egglan's notes, of forcing hens in large barns to engage in "continual mingling," which results in "continual . . . challenging" among the animals.⁴⁰

72. As a result, Egglan's allows its suppliers to engage in beak trimming, as Egglan's admits. Beak trimming involves the surgical removal of part of the hen's beak.

³⁶ *Egg Laying Hens*, Edition 21, Humane Animal Farm Care, at 14, 28 (2023), https://certifiedhumane.org/wp-content/uploads/Standard_LayingHens-2023.pdf (only banning the withdrawal of food for molting purposes).

³⁷ *Cage Free*, Hickman's Poultry Ranch, <https://hickmanseggs.com/sustainability> (last visited Oct. 30, 2024).

³⁸ *Animal Welfare Standards for Laying Hens-Cage Free*, American Humane Certified (Oct. 2019), <https://www.americanhumane.org/app/uploads/2021/08/Layers-Cage-Free-Full-Standards.pdf>.

³⁹ *Our Certified Producers*, American Humane, https://www.americanhumane.org/humane-heartland/?_producer_types=cage-free-eggs&_per_page=500 (last visited Oct. 30, 2024).

⁴⁰ *Where and how are the hens housed?*, FAQ Animal Welfare, <https://www.egglandsbest.com/faqs/hens-housed> (last visited Oct 30, 2024).

Eggland's does this to "protect the birds from each other."⁴¹ In other words, physically altering the natural form of the hens is seen as necessary because otherwise, the conditions they are kept in would result in unacceptable internecine violence.

73. ***Herbruck's Poultry Ranch***, a Cage Free Eggs supplier, does indeed engage in beak trimming, as it admits.⁴²

E. In Sum, Eggland's Representations are False and Misleading.

74. Eggland's claims it ensures that "[e]very hen selected by Eggland's Best Cage Free Eggs is free to roam in a pleasant, natural environment," "in an open, comfortable barn environment keeping them happy and healthy," can exercise "normal function and behavior," and is treated "humanely." None of this is true.

75. Images from inside and outside the factory farms supplying Eggland's with Cage Free Eggs show highly dense conditions, no access to grass or vegetation, no or de minimis access to natural light, and no access to the outdoors.

76. The certification standards Eggland's suppliers purport to follow indicate that those producers engage in intense overcrowding, beak trimming, keeping the animals indoors forever, and the withdrawal of water to induce molting.

77. Eggland's own admissions reveal that Eggland's suppliers keep their hens in conditions so dense that it causes violence among the flock and utterly disrupts their natural social hierarchies. To address this, Eggland's allows suppliers to engage in beak trimming—a direct and unnatural alteration of the animal's normal body to account for the stress and danger caused by the unnaturally dense conditions they are kept in. The certification standards Eggland's suppliers follow permit this to be done without pain mitigation.

⁴¹ *Id.*

⁴² *Do you trim the hen's beaks?*, Herbruck's, <https://herbrucks.com/faqs> (last visited Oct. 30, 2024).

78. These are not the happy, healthy hens living in pleasant and natural conditions that Eggland's would have consumers believe. We know what conditions are conducive to hen welfare, and Eggland's suppliers do not provide such conditions for the hens laying Cage Free Eggs. Far from it. Eggland's representations are, therefore, false and misleading.

III. Eggland's Misrepresentations Are Material to Consumers.

79. Eggland's animal welfare representations are material to consumers, who care about supporting humane animal farming practices.

80. A 2021 survey of 4,292 consumers from across fourteen countries, including consumers from the United States, found that consumers are increasingly concerned about animal welfare and improved treatment and conditions for farmed animals, including that of egg-laying hens. That survey found "that most participants across all countries eat eggs, most state that it matters to them that hens do not suffer in the process of producing the eggs they eat, and importantly, a majority of participants in most countries . . . would prefer . . . to purchase eggs from hens not kept in cages."⁴³

81. A 2018 survey of 1,000 United States consumers found that the large majority of respondents are concerned with the welfare of animals raised for food, including egg-laying hens, and that the welfare of these animals is important when making purchasing decisions.⁴⁴

82. A 2015 nationally representative survey conducted by Consumer Reports found that 84% of consumers say that "providing better living conditions for animals" is a key objective

⁴³ Michelle Sinclair et al., *Consumer Attitudes Toward Egg Production Systems and Hen Welfare Across the World*, 3 *Frontiers in Animal Science* 1, 2 (Oct. 12, 2022), <https://www.frontiersin.org/articles/10.3389/fanim.2022.995430/full>.

⁴⁴ C. Victor Spain et al., *Are They Buying It? United States Consumers' Changing Attitudes Toward More Humanely Raised Meat, Eggs, and Dairy*, 8 *Animals* 1, 5-6, (Jul. 25, 2018) <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6116027/>.

when shopping for food.⁴⁵

83. Globally, consumers are concerned about the moral implications of animal production systems on farm animal welfare and have increasingly demanded ethical production and refused to purchase products that do not meet their animal welfare concerns.⁴⁶

CLASS ALLEGATIONS

84. Plaintiff repeats and realleges each allegation contained in the foregoing paragraphs.

85. This action is maintainable as a class action under Rules 23(b)(2) and (3) of the Federal Rules of Civil Procedure.

86. The class definition(s) may depend on the information obtained through discovery, prior to class certification proceedings. Notwithstanding, at this time, Plaintiff brings this action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of himself and all consumers who purchased Egghand's Best's Cage Free Eggs during the Class Period within the United States but outside of the State of California ("the Class").

87. Included in the Class is a subclass of all persons who purchased the Products (as defined herein) within the State of Illinois during the Class Period (the "Illinois Subclass").

88. Excluded from the Class are (1) Defendants, any entity or division in which Defendants have a controlling interest, and their legal representatives, officers, directors, assigns, and successors; and (2) the judge to whom this case is assigned and the judge's staff.

⁴⁵ *Natural Food Labels Survey: 2015 Nationally-Representative Phone Survey*, Consumer Reports National Research Center (2015), <https://www.foodpolitics.com/wp-content/uploads/Consumer-Reports-Natural-Food-Labels-Survey-Report.pdf>.

⁴⁶ Marta E. Alonso, et al., *Consumers' Concerns and Perceptions of Farm Animal Welfare*, 10 *Animals* (Basel) 1, 2 (Feb. 27, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7143148/pdf/animals-10-00385.pdf>.

89. Plaintiff brings the Class pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(1), 23(b)(2), and 23(b)(3).

90. Plaintiff reserves the right to amend the Class definitions if further information and discovery indicate that the Class should be narrowed, expanded, or otherwise modified.

91. All members of the Class were and are similarly affected by the deceptive labeling and advertising of Egglund's Best Cage Free Eggs, and the relief sought herein is for the benefit of Plaintiff and members of the Class.

I. Numerosity

92. Currently, Plaintiff does not know the exact number of Class members. Based on the wide distribution of Egglund's Best Cage Free Eggs, Plaintiff believes that the Class comprises many thousands of consumers. The number of consumers in the Class is so large as to make joinder impracticable, if not impossible. Class members may be notified of the pendency of this action by recognized, court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice.

II. Commonality

93. There is a well-defined community of interest in the questions of law and fact in this case. Questions of law and fact common to the members of the Class that predominate over questions that may affect individual class members include:

- a. Whether Defendants are responsible for the labeling and advertising at issue;
- b. Whether the labeling and advertising of the Cage Free Eggs were unfair, false, deceptive, fraudulent, and/or unlawful;
- c. Whether the labeling and advertising of the Cage Free Eggs are likely to mislead a reasonable consumer;
- d. What reasonable consumers understand “pleasant,” “natural,” “happy,” and other such representations to convey about the Cage Free Eggs; and
- e. Whether Egglund’s conduct injured Plaintiff and the Class members.

III. Typicality

94. Plaintiff’s claims are typical of those of the Class, as the claims arise from the same course of conduct by Defendants, and the relief sought within the Class is common to all the Class members.

95. Plaintiff, like all Class members, viewed Defendants’ false and misleading representations and purchased Egglund’s Best’s Cage Free Eggs, or purchased more of them, or paid more for the Products than he would have paid if the Products had been properly labeled, and so sustained injury from Egglund’s Best’s wrongful conduct. Further, there are no defenses available to Defendants that are unique to Plaintiff.

IV. Adequacy

96. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff is an adequate representative of the Class because his interests do not conflict with the interests of the Class members he seeks to represent, and he has retained competent counsel experienced in both consumer protection and class action litigation. Plaintiff and counsel will fairly and

adequately protect the interests of the members of the Class. Counsel have represented consumers in a variety of actions seeking to protect consumers from fraudulent and deceptive practices.

V. Predominance and Superiority of Class Action

97. The prerequisites to maintaining a class action pursuant to Federal Rule of Civil Procedure 23(b)(3) are met because the questions of law and fact common to each Class member predominate over any questions affecting only individual Class members, and a class action is superior to available methods for fairly and efficiently adjudicating this controversy.

98. Individual joinder of the Class members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual Class members. Each Class member has been damaged and is entitled to recovery because of the violations alleged herein.

99. Moreover, because the damages suffered by individual members of the Class may be relatively small, the expense and burden of individual litigation would make it difficult or impossible for individual Class members to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. Class action treatment will allow those similarly situated to litigate their claims in a manner that is most efficient and economical for the parties and the judicial system.

100. Plaintiff is unaware of any difficulties in managing this case that would preclude proceeding as a class action.

101. Certification is also appropriate under Rule 23(b)(2) because Defendants acted, or refused to act, on grounds generally applicable to the Class.

102. Further, given the large number of consumers of Egglund's Best's Products, allowing individual actions to proceed in lieu of a class action would run the risk of yielding

inconsistent and conflicting adjudications.

CAUSES OF ACTION

COUNT I

Violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 *et seq.*

(Against All Defendants)

(On Behalf of Plaintiff and the Illinois Subclass)

103. Plaintiff repeats and realleges each allegation contained in the foregoing paragraphs.

104. The acts of Defendants, as described above, and each of them, constitute unlawful, deceptive, and fraudulent business acts and practices.

105. Eggland's has marketed its Cage Free Eggs with representations that it ensures that "Every hen . . . is free to roam in a pleasant, natural environment," is "in an open, comfortable barn environment keeping them happy and healthy," can exercise "normal function and behavior," and is treated "humanely." As laid out in detail above, none of that is true.

106. Eggland's knew what representations it made on the label of the Cage Free Eggs and on its website, and it knew the conditions at its suppliers. Thus, Eggland's Best knew, or should have known, that it made misrepresentations.

107. Eggland's marketing of the Cage Free Eggs and their packaging and labeling induced Plaintiff and the Illinois Subclass members to buy the Products, to buy more of the Products, and/or to pay the price requested for those Products.

108. As a seller of goods to the consuming public, Eggland's Best is engaged in the conduct of trade or commerce within the meaning of 815 ILCS 505/1(f).

109. Eggland's has misrepresented and/or omitted a material fact about the nature of the Cage Free Eggs, with intent that consumers will rely upon that misrepresentation and/or

omission. Eggland's Best's inclusion of the misrepresentation on the Cage Free Eggs labeling was knowing and intentional.

110. Eggland's has violated, and continues to violate, Section 505/2 of the Illinois Consumer Fraud and Deceptive Business Practices Act, which makes unfair competition and deceptive practices unlawful.

111. As a direct and proximate cause of Eggland's violation of Section 505/2, Plaintiff and other members of the Illinois Subclass have suffered damages in an amount to be determined at trial.

112. Eggland's is therefore liable to Plaintiff and the other members of the Illinois Subclass for actual economic damages for each purchase of Eggland's Best Cage Free Eggs, attorneys' fees, and the cost of this suit.

113. In addition, Eggland's continues engaging in the deceptive conduct, and, upon information and belief, will continue to do so. Members of the Illinois Subclass that Plaintiff seeks to represent are purchasing, and will continue to purchase, the misrepresented Cage Free Eggs.

114. The unfair and deceptive acts and practices of Eggland's Best, as described, present an ongoing threat to Plaintiff and the other members of the Illinois Subclass.

COUNT II

Violations of Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/1 *et seq.*

(Against All Defendants)

(On Behalf of Plaintiff and the Illinois Subclass)

115. Plaintiff repeats and realleges each allegation contained in the foregoing paragraphs.

116. The acts of Defendants, as described above, and each of them, constitute unlawful, deceptive, and fraudulent business acts and practices.

117. Eggland's has marketed its Cage Free Eggs with representations that it ensures that "[e]very hen . . . is free to roam in a pleasant, natural environment," is "in an open, comfortable barn environment keeping them happy and healthy," can exercise "normal function and behavior," and is treated "humanely." As laid out in detail above, none of that is true.

118. Eggland's has violated, and continues to violate, Section 510/2 of the Illinois Uniform Deceptive Trade Practices Act, which makes deceptive business practices unlawful.

119. The Uniform Deceptive Trade Practices Act provides that it is unlawful to "represent that goods [] have . . . characteristics . . . [and] benefits . . . that they do not have" and that goods "are of a particular standard [and] quality," when they are of another. 815 ILCS 510/2 (a)(5), (7).

120. As a direct and proximate cause of Eggland's violation of Section 510/2, Plaintiff and other members of the Illinois Subclass paid for Cage Free Eggs, the characteristics and benefits of which have been misrepresented, and, as such, Plaintiff and other members of the Illinois Subclass have suffered damages in an amount to be determined at trial.

121. Eggland's continues to engage in the deceptive conduct and, upon information and belief, will continue to do so unless enjoined by the Court. Members of the Illinois Subclass that Plaintiff seeks to represent are purchasing, and will continue to purchase, the misrepresented Cage Free Eggs.

122. The unfair and deceptive acts and practices of Eggland's Best, as described above, present an ongoing threat to Plaintiff and the other members of the Illinois Subclass.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment on behalf of himself and the proposed Class and Subclass, providing such relief as follows:

A. Certification of the Class and Subclass proposed herein under Federal Rules of Civil Procedure 23(a), (b)(1), (b)(2), and (b)(3); appointment of Plaintiff Reimer as representative of the Class and Subclass; and appointment of undersigned counsel as counsel for the Class and Subclass;

B. A declaration that Eggland's Best is financially responsible for notifying Class members of the pendency of this suit;

C. An order enjoining Eggland's Best's unlawful and deceptive acts;

D. An order requiring an accounting for, and imposition of a constructive trust upon, all monies received by Eggland's Best as a result of the unfair, misleading, fraudulent, and unlawful conduct alleged herein;

E. Statutory or actual damages for members of the Illinois Subclass pursuant to the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2, and restitution, disgorgement, refund, and/or other monetary damages, including treble damages together with costs and disbursements, reasonable attorneys' fees and expert fees, and prejudgment interest at the maximum rate allowable by law;

F. Monetary damages and statutory damages in the maximum amount provided by law;

G. Punitive damages in accordance with proof and in an amount consistent with applicable precedent;

H. Such further relief as this Court may deem just and proper.

DATED: November 1, 2024

Respectfully submitted,

RICHMAN LAW & POLICY



P. Renée Wicklund (Bar No. 6269297)
535 Mission St., 14th Floor
San Francisco, CA 94105
Tel: (415) 259-5688
rwicklund@richmanlawpolicy.com

Attorney for Plaintiff and Proposed Class